

Atty Dkt. No.: 10004108-1
USSN: 10/037,757

REMARKS

In view of the following remarks, the Examiner is requested to allow claims 1-10, 12-20, 22-24 and 26-28, the only claims pending and under examination in this application.

The Applicants thank the Examiner for acknowledging that claims 8 and 19 are allowable.

Claim Rejections – 35 U.S.C. § 112, first paragraph

Claims 1-10, 12-20, 22-24 and 26 have been rejected under 35 U.S.C. § 112, first paragraph, because the claims allegedly contain new subject matter.

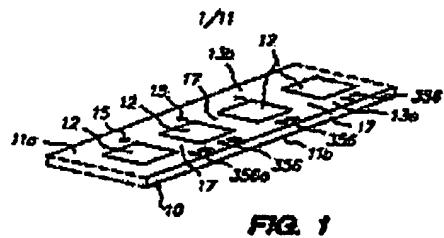
The Office asserts that the Applicants use of the term "continuous" with respect to the glass layer constitutes new matter. The Applicants disagree.

As set forth in the Applicants' response to the June 13, 2005 Office Action, the rejected claims include a plastic base layer, a continuous glass layer, and an in-between layer. The specification teaches that the glass layer serves as a "substrate" upon which an array may be fabricated. See page 5, lines 7 to 12. The specification additionally teaches that the substrate may be in the form of a "web." See page 11, lines 6 to 9. The specification further teaches that a "web" is a "long continuous piece of substrate material." See page 9, lines 3-5. Accordingly, because the glass layer serves as a substrate, which may be in the form of a web, and the specification teaches that a web is a long continuous piece of substrate, then the glass layer may be a "continuous" layer.

The Office acknowledges that the specification provides examples of an elongated web substrate and teaches that the substrate may have a glass layer. The Applicants would like to point out that with reference to FIG. 1 (reproduced below), a substrate is therein provided in the form of an elongated web (10). As can be seen, the web (10) is a continuous glass substrate that has a plurality of arrays (12) disposed upon its front surface (11). The specification teaches that although only four arrays (12) are shown, it is

Atty Dkt. No.: 10004108-1
USSN: 10/037,757

understood that the web (10) may have any number of arrays (12) such as five, ten, twenty, fifty, one hundred, five hundred, one thousand, three thousand or more all arranged end to end along the lengthwise direction of the web (10). See page 11, lines 6 to 18.



Accordingly, the specification teaches that the "substrate" may be continuous and may be made of glass. Therefore, as can be seen with reference to FIG. 1 the glass layer may be continuous.

In light of the above, the Applicants contend that the use of the term "continuous" with reference to the glass layer is fully supported by the specification as originally filed, and therefore does not constitute new matter. Accordingly, the Applicants respectfully request that the 35 U.S.C. § 112, first paragraph, rejection of Claims 1-10, 12-20, 22-24 and 26 be withdrawn.

Claim Rejections – 35 U.S.C. § 103(a)

Claims 1-6, 9-10, 12-17, 20, 22-24 and 26-28 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Chen et al. (US Patent Application Publication No. 2001/0051714) in view of Giaevers (USPN 3,979,184) or Dickinson (WO 01/18524).

The presently claimed invention is directed to an array assembly. The array assembly includes a plastic base layer, a continuous glass layer, and a layer between the base and glass layers that blocks at least 10% of the illuminating light incident on the front surface.

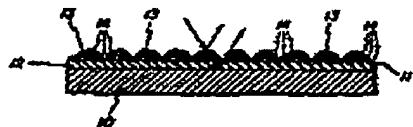
Atty Dkt. No.: 10004108-1
USSN: 10/037,757

The Office asserts that Chen discloses an array assembly that includes a plastic base layer, a glass layer, and a metal in-between layer. The Office acknowledges that Chen is deficient in that it fails to teach the light blocking properties of the metal in-between layer. The Office, therefore, relies upon Giaeever or Dickinson to meet the deficiencies of Chen.

However, the Applicants contend that Giaeever would not motivate one of skill in the art to modify Chen as suggested by the Office because Giaeever does not disclose the structure asserted by the Examiner.

The Office asserts that Giaeever discloses a plastic base layer, a glass layer over the plastic base layer, and an intervening metal layer wherein the metal layer is "non-transparent." The Applicants contend, however, that the Office has mischaracterized the cited art.

Giaeever does not teach a plastic base layer, a continuous glass layer, and a metal layer in between the plastic and glass layers. Rather, as can be seen with reference to the drawing set forth in Giaeever (reproduced herein below), Giaeever discloses a base layer (10) that may be glass or plastic that is coated with a metal (not shown). Bonded directly to the surface of the base layer is a transparent dielectric material (12). The specification teaches that the transparent dielectric material may be an oxide of the metal or a polymer or copolymer or an evaporated layer of magnesium fluoride. See e.g., Col. 3, lines 9 to 20. The Adhered to the transparent dielectric material is a second (transparent) metal (13) that is in the form of Globules. See column 2, lines 51 to 61.



Accordingly, although Giaeever discloses that the base may either be glass or plastic, nowhere does Giaeever teach a plastic base layer that is covered with a metal layer to which a continuous glass surface layer is then added. Therefore, Giaeever does not teach a metal layer in between a plastic base layer and a continuous glass layer.

Atty Dkt. No.: 10004108-1
USSN: 10/037,757

In fact, to the extent that Giaeever discloses an intermediate layer it teaches that the intermediate layer (12) is a thin dielectric layer such as a metal oxide to which a transparent metal (13) is deposited in the form of globules. Hence, the "very good" interference colors produced by the assembly disclosed in Giaeever is not due to the effects of a metal layer that separates a continuous glass layer from a plastic base layer, but rather are due to the interference characteristics produced by the combination of the deposited surface metal globules (13) and the dielectric layer (12). See column 4, lines 10 to 13.

Therefore, Giaeever does not teach a plastic base layer, a continuous glass layer and a non-transparent metal layer separating the plastic and glass layers. Accordingly, contrary to the assertion of the Office, one of skill in the art would not be motivated to combine the references in the manner suggested because one of skill in the art would associate the benefits derived from Giaeever as being due to the way that device is structured, namely, having a plurality of metal layers separated by a transparent dielectric material on top of a plastic or glass layer. Because the device disclosed in Giaeever is completely different from the device claimed by the Applicants, which includes a metal layer in between a plastic base layer and a glass layer, there is no reason for one of skill in the art to believe that the benefits taught in Giaeever would be applicable to the device claimed by the Applicants. In light of this, the Applicants contend that one of skill in the art would not be motivated to combine the references in the manner suggested by the Office.

The Office further asserts that Dickinson teaches a plastic base layer, a glass layer, and a layer between the base and glass layers that blocks illuminating light. However, as set forth in the Applicants' response to the December 1, 2004 Office Action, an element of the rejected claims is a continuous glass layer forward of the base layer. Dickinson, however, fails to teach a continuous glass layer. Rather, Dickinson discloses a structure (i.e., a fiber optic bundle) upon which a population of microspheres is distributed on the surface. Dickinson further discloses that the fiber optic bundle may be covered by a non-fluorescent covering (such as gold, silver, chromium, platinum or indium oxide) that functions to diminish the intrinsic fluorescent properties of the fiber optic bundle.

However, the Applicants would like to point out that a distribution of microspheres is not a continuous glass layer. Accordingly, Dickinson does not teach a plastic base layer, a

Atty Dkt. No.: 10004108-1
USSN: 10/037,757

continuous glass layer and a non-transparent metal layer separating the plastic and continuous glass layers. Hence, one of skill in the art would not be motivated to combine the references in the manner suggested because one of skill in the art would associate the benefits derived from Dickinson as being due to the way that device is structured, namely, due to having a population of microspheres distributed on the surface of a fiber optic bundle. Therefore, one of skill in the art would not be motivated to modify Chen to include an intermediate layer as claimed because Dickinson's teachings are for a completely different structure (i.e., a layer of microspheres on a bundle of optical fibers) than that claimed by the Applicants..

In light of the above, the Applicants contend that a *prima facie* case of obviousness has not been established because there is no motivation to combine the references in the manner suggested. Accordingly, the Applicants respectfully request that the 35 U.S.C. § 103(a) rejection of Claims 1-6, 9-10, 12-17, 20, 22-24, and 26-28 be withdrawn.

Claims 7 and 18 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Chen *et al.*

Claims 7 and 18 depend from independent Claims 1 and 14 respectively. Both Claims 1 and 14 recite a layer between the base and glass layers that blocks at least 10% of an illuminating light. The Office acknowledges that Chen does not teach an intermediate layer that blocks at least 10% of an illuminating light. Because, as taught by Glaever, metal layers may either be transparent or blocking, and because Chen does not teach or fairly suggest that the metal layers disclosed therein block at least 10% of light incident thereon, Chen can not be used to render the present claims obvious. Accordingly, the Applicants respectfully request this rejection be withdrawn.

Atty Dkt. No.: 10004108-1
USSN: 10/037,757

CONCLUSION

Applicants submit that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone Bret Field at (650) 327-3400.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-1078, order number 10004108-1.

Respectfully submitted,

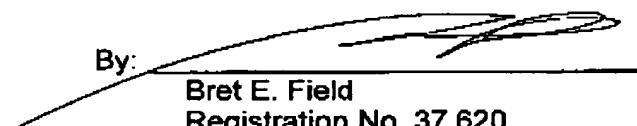
Date: February 16, 2006

By:


James S. Nolan
Registration No. 53,393

Date: February 16, 2006

By:


Bret E. Field
Registration No. 37,620

AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland, CO 80537-0599

F:\DOCUMENT\AGIL\194 (10004108-1)\10004108-1 (AGIL-194) Resp OA 11-29-05.doc